



DUST EVANS
Professional Corporation
LAWYERS/AVOCATS

“Title Insurance”

As the name implies, title insurance is simply a policy of insurance on the title to a property. One-time premiums are paid at the time of purchase. They cover the purchaser's entire period of ownership.

There are a number of advantages to title insurance:

1. Title insurance provides broader coverage than a lawyer's certificate of title. For instance, a lawyer's certificate of title will generally be qualified to say that it is: a) dependent upon the accuracy of the information in the public records consulted by the lawyer; b) dependent upon there being no fraud in the transaction, and c) subject to the accuracy of the survey and any defects that an up-to-date survey might reveal. Generally speaking, title insurance covers all of these things.
2. Title insurance can save you money. We generally use Title Plus whose premiums for a residential purchase under \$500,000.00 and first mortgage we can pass along to you at \$238.60. The lawyer is still required to perform a search of title and other searches but, instead of certifying title to the client, certifies it to the title insurance company. Cost savings are realized in the “off title” searches for things like taxes, utilities, zoning, work orders, building permits, etc. Where title insurance is used, written certificates or reports are generally not required for these searches thereby resulting in savings which will, in most cases, exceed the cost of title insurance.
3. If you have a problem with your title, you make a claim against the title insurance company pursuant to the provisions of your policy. Generally speaking, it is going to be much simpler, more straightforward and cheaper for you to obtain redress from the title insurance company than it would be to pursue the lawyer who certified title to you. The lawyer in question could have died, ceased to practice law, etc. Just tracking him or her down could result in delays that could cause you further damages. It is easier to simply contact a representative of your title insurance company and have the matter dealt with by it.

Notwithstanding these advantages, title insurance is not appropriate for every transaction. For instance, if the nature of the property that you are buying is such that there is a strong possibility that it has substantial title problems, it may be better to have your lawyer obtain all possible written certificates with a view to discovering and clearing up the problems before the closing date. If the problems are not found and cleared up at that time, your enjoyment of the property

could be substantially diminished. As well, if it became necessary to clear up the problems later on, it might be more difficult to do so simply because of the passage of time. Clearing up title problems usually involves getting signatures from previous owners of the subject property or adjoining properties who might not be available years later.

Under rule 30 of the *Rules of professional Conduct* for Ontario lawyers, your lawyer is required to discuss the title insurance and non-title insurance options with you and advise as to what approach is appropriate in your particular circumstances. Each transaction must be considered on its individual merits. Rule 30 requires that advice concerning the appropriateness of title insurance come from a lawyer, not a staff person in the lawyer's office.

FOR ADDITIONAL INFORMATION ON TITLEPLUS INSURANCE, PLEASE REFER TO www.titleplus.ca.

**SOME TYPICAL COST SAVINGS* USING
TITLE INSURANCE**

WITH TITLE INSURANCE		WITHOUT TITLE INSURANCE	
Title insurance (with one mortgage)	\$238.00		
Tax Certificate	not required	Tax Certificate	\$60.00
Water Certificate		Water Certificate	\$60.00
Hydro Search/Certificate		Hydro Search/Certificate	\$10.00
Gas Search/Certificate		Gas Search/Certificate	\$15.00
Zoning, Building & Work Orders Searches/Certificate			\$250.00
New Survey		New Survey	\$1,000.00- \$1,500.00
Transaction Levy Surcharge		Transaction Levy Surcharge	\$50.00
TOTAL COSTS:	\$238.00	TOTAL COSTS:	\$ 1445.00- \$1945.00

*** Explanatory Notes:**

1. The cost savings set out above are based on current costs in the City of Ottawa. They will vary in other municipalities and they are subject to change.
2. A new residential survey for mortgage purposes may vary in price from surveyor to surveyor. \$1,000.00 to \$1,500.00 is a reasonable estimate of surveying costs on an average property. A new survey will not be required for all non-title-insured transactions.
3. Costs shown above do not include any applicable GST.

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